

## REMARKS

The Office Action mailed on November 18, 2004, was received and its contents carefully reviewed. By the above Amendment, Applicants canceled claims 2, 3, and 5. Further, Applicants amended claims 1, 4, 6, 12, and 13 to correct minor informalities and to recite the features and limitations of the present invention in more detail. Claim 1 was amended to incorporate the features of canceled claims 2, 3, and 5. Support for these amendments may be found throughout the specification and at least on pages 5-6, 19, 23, 27, 29, and 35. As such, Applicants respectfully submit that no new matter was introduced by these amendments. As now recited, claims 1, 4, 6-17 are currently pending and are believed to be in condition for allowance. Applicants respectfully request reconsideration of this application in light of the above amendments and the following remarks.

### **A. Previous Communications**

Applicants appreciate the Examiner's consideration of Amendments and Arguments previously submitted and acknowledge the Examiner's new grounds for rejection.

### **B. Claim Rejections under 35 U.S.C. § 101**

Claim 12-17 stand rejected under 35 U.S.C. § 101, as being directed to non-statutory subject matter. The Examiner asserts that the basis of this rejection is set forth by determining whether the invention is within the technological arts; and whether the invention produces a useful, concrete, and tangible result. By the above Amendment, Applicants respectfully submit that the previously rejected claims 12-16 are directed to statutory subject matter and request reconsideration and withdrawal of this rejection.

Additionally, Applicants respectfully submit that claim 17 as previously presented recites proper claim language to constitute statutory subject matter. The method for connecting buyers and sellers of products and services recited in claim 17 recites maintaining a comprehensive on-line directory of sellers, providing a request for proposal application for integration into a Web site of a partner, and co-branding the request for proposal application. Claim 17 further recites maintaining a searchable directory of companies for the partner, providing an e-commerce infrastructure, marketing a private-labeled web site of the partner, and providing usage and revenue reports that detail usage on the private-labeled web site.

The directory of sellers is on-line, providing a structure in the computer arts. Further, the request for proposal application is integrated into a Web site of a partner, thereby embodying the request for proposal in a recognized medium. The remaining steps recited in the method of claim 17 are used to produce a co-branded request for proposal application, a private-labeled Web site of the partner, and usage and revenue reports that detail usage on the private-labeled Web site. Applicants respectfully submit that each of these items is a useful, concrete, and tangible result and therefore falls within the purview of statutory subject matter under 35 U.S.C. § 101. As such, Applicants respectfully request reconsideration and withdrawal of this rejection.

#### **C. Claim Rejections under 35 U.S.C. § 103**

Claims 1-17 stand rejected under 35 U.S.C. § 103, as being unpatentable over Salmon et al. U.S. Patent No. 5,592,375 (the '375 patent) in view of Ross, Jr. et al. U.S. Patent No. 6,629,135 (the '135 patent) as indicated beginning on page 3 of the November 18, 2004, Office Action. In view of the amendments above and the comments below, Applicants respectfully request reconsideration and withdrawal of this rejection.

The present invention is generally directed to a business-to-business apparatus and method where vendors and buyers search out potential business partners through a searchable on-line directory and contact each other with requests for proposals, quotations, or additional information through the creation of a web community composed of Partner or Private Label Web sites. The co-branded Partner or Private Label Web sites can be managed through a partner-accessible extranet. Significantly, the web community can facilitate interaction between buyers and sellers, where vendors of products are contacted with requests for information leading to an on-going relationship between the buyer and seller. Information can be exchanged through the business-to-business web community by offering more than street address and phone number contact information to interested subscribers.

For example, amended claim 1 recites an apparatus connecting buyers and sellers of products and services comprising a comprehensive directory of companies, a user-maintained database of registered and subscribing companies selected from the comprehensive directory, and service-brokering tools for interacting with the directory of companies and user-maintained database of companies. The service-brokering tools comprise registering means for buyers and sellers to subscribe to the user-maintained database, contacting means for

buyers and sellers to contact subscribing members of the user-maintained database over a network, and searching means for the buyers and sellers to search the directory and the user-maintained database based on geographical boundaries. The service-brokering tools further comprise assigning means denoting a weighted importance to provider characteristics associated with each subscribing buyer and seller, ordering means for ranking buyers and sellers according to the weighted importance of provider characteristics stored in the user-maintained database, and branding means for defining visual attributes, geometric layouts, graphical layouts, textual layouts, interface elements, and logical design elements that can be used to dynamically generate a branded Web site. Amended claim 1 further recites an internal mechanism for a Web server to infer a private label interface from an initial network request of a registered and subscribing company that can persist and cache the private label interface information for the Web server by loading taxonomies specific to individual user-maintained databases and specifying the location of a request for proposal by publishing a pending Partner record to an active record and informing servers within a qualified farm of load-balanced Web servers to re-load the active record in response to a posting of a new request in a qualified server's category.

In contrast, the '375 patent appears to discuss a system to facilitate transactions where a review of diverse information is a part of the buyer's decision making process. The system of the '375 patent further provides information to be submitted by the seller, compiled in a database and reviewed by the buyer with the assistance of an interactive expert system (see col. 1, lines 19-24). The Examiner refers to column 13, lines 62-65 of the '375 patent and also asserts that Figures 2a-2f disclose a comprehensive directory of companies akin to those recited in claim 1 of the present invention. However, Figures 2a-2f and the cited portion of text of the '375 patent show only a buyer's view of potential products (a.k.a. job candidates). No disclosure is evident of a comprehensive directory of companies, and the job candidates (sellers) are not provided access to the company information. The system of the '375 patent is a one-way system where hiring managers (or other buyers) review qualifications of job candidates (sellers) by selecting and reviewing descriptive information from the database, entered by job candidates (sellers) (see col. 1, lines 34-38 and col. 3, lines 49-51). While the job candidates (sellers) may periodically update characteristic information, there is no disclosure of job candidates (sellers) contacting subscribing members of the user-maintained database over a network as recited in amended claim 1. Nor can the purchaser specify

questions that must be answered by the seller in their proposal. Instead, the only interaction afforded the sellers is the initial entry of product profile information in a repository and any information added in choosing “optional” information (see col. 3, lines 49-51 and see col. 6, lines 46-50). In the present invention, further communication is possible at each stage of the negotiation process.

Further, in the ‘375 patent, there is no disclosure of searching means for sellers to search the directory and the user-maintained database based on geographical boundaries, nor is there assigning means to denote a weighted importance to provider characteristics associated with each subscribing buyer and seller as recited in claim 1. The one-way system disclosed by the ‘375 patent permits buyers to make selections based upon different fields in which the sellers entered information, but does not permit sellers to interact with buyers as recited in amended claim 1 of the present invention. Additional heuristics of the ‘375 patent, while providing additional selection criteria for the buyers, also fail to disclose these limitations recited in amended claim 1 (see col. 11, lines 13-56).

Further, the ‘135 patent fails to cure the deficiencies of the ‘375 patent. The ‘135 patent generally discloses an e-commerce outsourcing system and method that provides hosts with transparent, context sensitive e-commerce supported pages (see Abstract and col. 3, lines 6-13). While the Examiner asserts the ‘135 patent discloses that the look and feel of each participating Host is captured and stored, there is no disclosure of a comprehensive directory of companies. The system of the ‘135 patent is a co-marketing system where a merchant host can outsource its commerce activities to an affiliate web site (see col. 2, lines 51-63). The ‘135 patent does not disclose a system or method that allows sellers to appear in different ways across multiple branded directories, nor one that allows the sharing of RFPs between the various brands according to rules established by the brands. The system and method of the present invention allows providers to be listed in multiple brands, to have different levels of promotion and information presented by brand, to have their information localized, and to manage these activities through a single interface. The system of the present invention also allows RFPs posted by buyers to be shared across all brands, or any subset of brands according to rules established by those brands. The buyers are then able to negotiate with all of these providers using a single interface. Additionally, there is no mention in the ‘135 patent of sellers contacting subscribing members of the user-maintained database over a network as recited in amended claim 1.

Also, in the '135 patent, there is no disclosure of searching means for sellers to search the directory and the user-maintained database based on geographical boundaries, nor is there assigning means to denote a weighted importance to provider characteristics associated with each subscribing buyer and seller as recited in claim 1. The system disclosed by the '135 patent permits hosts to endorse, promote, and offer merchant products (see col. 23, lines 40-42), but does not permit sellers to interact with buyers as recited in amended claim 1 of the present invention. As such, the '135 patent fails to disclose these limitations as recited in amended claim 1 of the present invention.

The additional passages cited in the Office Action provide no additional disclosure of assigning means denoting a weighted importance to provider characteristics associated with each subscribing buyer and seller, nor of a location of a request for proposal. While the '135 patent appears to discuss a number of factors that may be important when considering business transaction partners, the '135 patent fails to disclose the function of denoting a weighted importance to provider characteristics associated with each subscribing buyer and seller as recited in claim 1 of the present application. It is well-accepted that a reference cannot anticipate a claimed means element unless it discloses function identical to the claimed function. *See e.g., Pennwalt Corp. v. Durand-Wayland, Inc.*, 833 F.2d 931 (Fed. Cir. 1987)(en banc), *cert denied*, 485 U.S. 961 (1988). Therefore, the '135 patent does not disclose the claimed assigning means.

Additionally, just as the '135 patent fails to disclose assigning means denoting a weighted importance to provider characteristics associated with each subscribing buyer and seller, the '135 patent then fails to disclose the function of ordering buyers and sellers according to the weighted importance of provider characteristics stored in the user-maintained database and thus does not disclose the claimed ordering means. If the weighted importance values are not assigned by some means, an ordering of importance cannot occur. The passages cited in the Office Action appear to describe capturing the look and feel of a web page, but in no way are the above limitations disclosed. Therefore, the '135 patent fails to cure the deficiencies of the '375 patent. Applicants respectfully submit that the cited references, both individually and collectively, fail to disclose all the elements and limitations recited in amended independent claim 1 of the present application. Further, neither the '375 patent nor the '135 patent provide or suggest a motivation for one of ordinary skill in the art to combine any of the features and limitations of the associated references to arrive at claim 1

of the present invention for connecting buyers and sellers of products and services. No suggestion or rationale, absent Applicants' teachings, for deviating from the discrete systems of the individual references is evident. In establishing a *prima facie* case of obviousness, it is incumbent upon the Examiner to provide a reason why one of ordinary skill in the art would have been led to modify a reference or to combine references to arrive at the claimed invention. Resort to Applicants' disclosure for such a reason is impermissible hindsight. The requisite motivation must stem from some teaching, suggestion, or inference in the prior art as a whole or from the knowledge generally available to one of ordinary skill in the art.

For these reasons, the Examiner fails to establish a *prima facie* case of obviousness under 35 U.S.C. § 103. Applicants respectfully submit that amended claim 1 is allowable over the cited references and request that the rejection of claim 1 under 35 U.S.C. § 103 be withdrawn.

Claims 4 and 6 are dependent upon claim 1 and thereby include all the limitations of independent claim 1 while reciting additional features of an apparatus of the present invention. Applicants respectfully traverse the rejection of claims 4 and 6 for similar reasons as outlined above with regard to the rejection of claim 1 under 35 U.S.C. § 103. As discussed above, the cited references, both individually and collectively, fail to disclose all the elements and limitations recited in independent claim 1 of the present application.

Further with regard to dependent claim 4, the references fail to disclose an apparatus with service-brokering tools where the service-brokering tools further include objects that can be used to generate private label interface-specific HTML where the object specifies the location of a request for proposal.

Likewise with regard to dependent claim 6, the references fail to disclose an apparatus where the service brokering tools include a mechanism to publish a pending Partner record to an active record and inform servers within a qualified farm of load-balanced Web servers to re-load the active record in response to a posting of a new request in a qualified server's category.

For these reasons, the Examiner fails to establish a *prima facie* case of obviousness under 35 U.S.C. § 103. Applicants respectfully submit that dependent claims 4 and 6 are allowable over the cited references for the reasons discussed above with regard to independent claim 1 and also for the reasons outlined above with regard to the specific

dependent claims. Applicants respectfully request that the rejection of claims 4 and 6 under 35 U.S.C. § 103 be withdrawn.

Amended independent claim 7 recites an apparatus connecting buyers and sellers of products and services comprising means for sharing requests for proposals that allow buyers and sellers to supply, access, and respond to the requests for proposals by distributing the requests for proposals to predefined subscribers based upon a hierarchical set of categories selected and assigned to the requests for proposals when the requests for proposals are created. Similarly, claim 12 recites a method for connecting buyers and sellers of products and services utilizing the apparatus of claim 7. Claims 7 and 12 further recite means and a method for geographic radius searching that allow the buyers and sellers to search the requests for proposals within specified geographic boundaries and means for partner web site branding that allow the buyers and sellers to form a community to facilitate the sharing of said requests for proposals and to publish modifications made to said requests for proposal.

On the other hand, the '375 patent appears to discuss a system to facilitate transactions where a review of diverse information is a part of the buyer's decision making process. The system of the '375 patent further provides information to be submitted by the seller, compiled in a database and reviewed by the buyer with the assistance of an interactive expert system (see col. 1, lines 19-24). The Examiner refers to column 8, lines 4-17 of the '375 patent and asserts that this cited portion of the reference discloses "means for sharing requests for proposals, wherein said means for sharing requests for proposals allows said buyers and sellers to supply, access, and respond to said requests for proposals by distributing said requests for proposals to predefined subscribers based upon a hierarchical set of categories selected and assigned to said requests for proposals when said requests for proposals are created" as required by independent claim 7. However, no means for sharing requests for proposals whatsoever is disclosed. Instead, the one-way buyer selecting seller described above with regard to claim 1 is evident.

Claim 7 further recites "...means for geographic radius searching, wherein said means for geographic radius searching allows the buyers and sellers to search the requests for proposals within specified geographic boundaries...." However, the cited portion of the '375 patent fails to disclose requests for proposals, and the only mention of geography is a "location" field in Figure 8a and Figure 8b. When taken in the context of the disclosure of the '375 patent, however, this location is again directed only to a buyer evaluating a location

of a seller (e.g., real estate product). There is no means with which sellers may search requests for proposals within specified geographic boundaries as recited by claim 7.

While the Examiner concedes that the '375 patent does not disclose means for partner web site branding, the '135 patent relied upon to provide this missing feature, does not cure the deficiencies of the '375 patent. Claim 7 of the present invention recites "means for partner web site branding, wherein said means for partner web site branding allows said buyers and sellers to form a community to facilitate the sharing of said requests for proposals and to publish modifications made to said requests for proposal."

Rather, the '135 patent generally discloses an e-commerce outsourcing system and method that provides hosts with transparent, context sensitive e-commerce supported pages (see Abstract and col. 3, lines 6-13). While the Examiner asserts the '135 patent discloses that the look and feel of each participating Host is captured and stored, there is no disclosure of a buyers and sellers forming a community to facilitate the sharing of the requests for proposals, as no requests for proposals are contemplated by the '135 patent. Similarly, there is no disclosure of the sharing of requests for proposals and the publication of modifications made to the requests for proposal as recited in independent claim 7.

The system disclosed by the '135 patent permits hosts to endorse, promote, and offer products to a merchant (see col. 23, lines 40-42), but does not permit sellers to interact with buyers as recited in claims 7 and 12 of the present invention. As such, the '135 patent fails to disclose these limitations as recited in claims 7 and 12 of the present invention.

The additional passages cited in the Office Action provide no additional disclosure of means for sharing requests for proposals where the means for sharing requests for proposals allows buyers and sellers to supply, access, and respond to the requests for proposals by distributing the requests for proposals to predefined subscribers based upon a hierarchical set of categories selected and assigned to the requests for proposals when the requests for proposals are created, nor of a means for geographic radius searching. While the '135 patent appears to discuss a number of factors that may be important when considering business transaction partners, the '135 patent fails to disclose the apparatus as recited in claim 7 and the method as recited in claim 12 of the present application. It is well-accepted that a reference cannot anticipate a claimed means element unless it discloses function identical to the claimed function. Therefore, the '135 patent does not disclose the claimed sharing, searching, or branding means.

The passages cited in the Office Action appear to describe capturing the look and feel of a web page, but in no way are the above limitations disclosed. Therefore, the '135 patent fails to cure the deficiencies of the '375 patent. Applicants respectfully submit that the cited references, both individually and collectively, fail to disclose all the elements and limitations recited in amended independent claims 7 and 12 of the present application. Further, neither the '375 patent nor the '135 patent provide or suggest a motivation for one of ordinary skill in the art to combine any of the features and limitations of the associated references to arrive at the recited features and limitations of claims 7 and 12 of the present invention for connecting buyers and sellers of products and services. No suggestion or rationale, absent Applicants' teachings, for deviating from the discrete systems of the individual references is evident. In establishing a *prima facie* case of obviousness, it is incumbent upon the Examiner to provide a reason why one of ordinary skill in the art would have been led to modify a reference or to combine references to arrive at the claimed invention. Resort to Applicants' disclosure for such a reason is impermissible hindsight. The requisite motivation must stem from some teaching, suggestion, or inference in the prior art as a whole or from the knowledge generally available to one of ordinary skill in the art.

For these reasons, the Examiner fails to establish a *prima facie* case of obviousness under 35 U.S.C. § 103. Applicants respectfully submit that amended claims 7 and 12 are allowable over the cited references and request that the rejection of claims 7 and 12 under 35 U.S.C. § 103 be withdrawn.

Dependent claims 8-11 and 13-16 are dependent upon claim 7 and claim 12, respectively, and thereby include all the limitations of independent claims 7 and 12, respectively, while reciting additional features of the present invention. Applicants respectfully traverse the rejection of claims 8-11 and 13-16 for similar reasons as outlined above with regard to the rejection of claims 7 and 12 under 35 U.S.C. § 103. As discussed above, Applicants respectfully submit that the cited references, both individually and collectively, fail to disclose all the elements and limitations recited in independent claims 7 and 12 of the present application. Therefore, the applied references fail to disclose all the features and limitations of claims 8-11 and 13-16 as well.

Accordingly, Applicants respectfully submit that claims 8-11 and 13-16 are allowable by virtue of their dependency upon claims 7 and 12 as outlined above. Applicants

respectfully request reconsideration and withdrawal of the rejection of claims 8-11 and 13-16 under 35 U.S.C. § 103.

Additionally, independent claim 17 recites a method for connecting buyers and sellers of products and services by maintaining a comprehensive on-line directory of sellers, providing a request for proposal application for integration into a Web site of a partner, and co-branding the request for proposal application. The invention then maintains a searchable directory of companies for the partner while providing an e-commerce infrastructure, markets the partner's private-labeled web site, and provides usage and revenue reports that detail usage on the private-labeled web site.

The Examiner refers to column 7, lines 47-61 of the '375 patent and asserts that this cited portion of the reference discloses "providing a request for proposal application for integration into a Web site." However, no request for proposal application is evident in the '375 patent. Instead, the cited portion of the '375 patent merely recites, "Upon establishing a search session, in step 502 the system presents the buyer with a series of screens, similar to those of FIGS. 4a-4q. The buyer, assisted by Buyer's Interface, specifies search criteria (the Buyer's Profile), indicating characteristics for selection or exclusion of products. To provide additional capability to the search, the buyer may specify "must have" criteria, weighted "want to have" criteria, and unstructured word associations (see discussion of FIGS. 7a-7d, below). The buyer may also specify a target number of "hits," that is, a target number of candidates whose profiles he would like to retrieve from the database for detailed review." Please see column 7, lines 47-61. No disclosure of a request for proposal application is evident, much less a request for proposal application for integration into a Web site.

Additionally, the Examiner concedes that the '375 patent does not disclose co-branding the request for proposal application and relies upon the '135 patent to provide this missing feature. However, the '135 patent does not cure the deficiencies of the '375 patent. Claim 17 of the present invention recites co-branding a request for proposal application and neither the '135 patent nor the '375 patent disclose this limitation recited in claim 17.

The additional passages cited in the Office Action provide no additional disclosure of co-branding a request for proposal application. While the '135 patent appears to discuss a number of factors that may be important when considering business transaction partners, the '135 patent fails to disclose the method recited in claim 17.

Applicants respectfully submit that the cited references, both individually and collectively, fail to disclose all the elements and limitations recited in independent claim 17 of the present application. Further, neither the '375 patent nor the '135 patent provide or suggest a motivation for one of ordinary skill in the art to combine any of the features and limitations of the associated references to arrive at the recited features and limitations of claim 17 of the present invention for connecting buyers and sellers of products and services. No suggestion or rationale, absent Applicants' teachings, for deviating from the discrete systems of the individual references is evident. In establishing a *prima facie* case of obviousness, it is incumbent upon the Examiner to provide a reason why one of ordinary skill in the art would have been led to modify a reference or to combine references to arrive at the claimed invention. Resort to Applicants' disclosure for such a reason is impermissible hindsight. The requisite motivation must stem from some teaching, suggestion, or inference in the prior art as a whole or from the knowledge generally available to one of ordinary skill in the art.

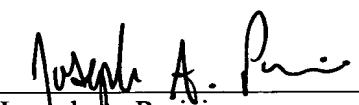
For these reasons, the Examiner fails to establish a *prima facie* case of obviousness under 35 U.S.C. § 103. Applicants respectfully submit that claim 17 is allowable over the cited references and request that the rejection of claim 17 under 35 U.S.C. § 103 be withdrawn.

**D. Conclusion**

In view of the above amendments and remarks, Applicants respectfully request the Examiner's reconsideration of this application and the timely allowance of the pending claims.

Respectfully submitted,

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